

returning prematurely drawn Grant funds, the RLF Recipient must clearly identify on the face of the check or in the written notification to the applicable grants officer “EDA,” the Grant award number, the words “Premature Draw,” and a brief description of the reason for returning the Grant funds.

(f) *Local Share*. (1) Cash Local Share of the RLF may only be used for lending purposes. The cash Local Share must be used either in proportion to the Grant funds or at a faster rate than the Grant funds.

(2) When an RLF has a combination of In-Kind Contributions and cash Local Share, the cash Local Share and the Grant funds will be disbursed proportionately as needed for lending activities, provided that the last 20 percent of the Grant funds may not be disbursed until all cash Local Share has been expended. The full amount of the cash Local Share shall remain for use in the RLF.

[71 FR 56675, Sept. 27, 2006, as amended at 75 FR 4264, Jan. 27, 2010; 79 FR 76133, Dec. 19, 2014]

§ 307.12 Revolving Loan Fund Income.

(a) *General requirements*. RLF Income must be placed into the RLF Capital base for the purpose of making loans or paying for eligible and reasonable administrative costs associated with the RLF’s operations. RLF Income may fund administrative costs, provided:

(1) Such RLF Income and the administrative costs are incurred in the same six-month Reporting Period;

(2) RLF Income that is not used for administrative costs during the six-month Reporting Period is made available for lending activities;

(3) RLF Income shall not be withdrawn from the RLF Capital base in a subsequent Reporting Period for any purpose other than lending without the prior written consent of EDA; and

(4) The RLF Recipient completes an RLF Income and Expense Statement (the “*Income and Expense Statement*”) as required under § 307.14(c).

(b) *Compliance guidance*. When charging costs against RLF Income, RLF Recipients must comply with applicable Federal cost principles and audit requirements as found in:

(1) 2 CFR part 225 (OMB Circular A-87 for State, local, and Indian tribal governments), 2 CFR part 230 (OMB Circular A-122 for non-profit organizations other than institutions of higher education, hospitals or organizations named in OMB Circular A-122 as not subject to such Circular), and 2 CFR part 220 (OMB Circular A-21 for educational institutions); and

(2) OMB Circular A-133 for Single Audit Act requirements for States, local governments, and non-profit organizations and the Compliance Supplement, as appropriate.

(c) *Priority of payments on defaulted RLF loans*. When an RLF Recipient receives proceeds on a defaulted RLF loan that is not subject to liquidation pursuant to § 307.20, such proceeds shall be applied in the following order of priority:

(1) *First*, towards any costs of collection;

(2) *Second*, towards outstanding penalties and fees;

(3) *Third*, towards any accrued interest to the extent due and payable; and

(4) *Fourth*, towards any outstanding principal balance.

[71 FR 56675, Sept. 27, 2006, as amended at 73 FR 62867, Oct. 22, 2008; 79 FR 76134, Dec. 19, 2014]

§ 307.13 Records and retention.

(a) *Closed Loan files and related documents*. The RLF Recipient shall maintain Closed Loan files and all related documents, books of account, computer data files and other records over the term of the Closed Loan and for a three-year period from the date of final disposition of such Closed Loan. The date of final disposition of a Closed Loan is the date:

(1) Principal, interest, fees, penalties and all other costs associated with the Closed Loan have been paid in full; or

(2) Final settlement or discharge and cessation of collection efforts of any unpaid amounts associated with the Closed Loan have occurred.

(b) *Administrative records*. RLF Recipients must at all times:

(1) Maintain adequate accounting records and source documentation to substantiate the amount and percent of RLF Income expended for eligible RLF administrative costs.

§ 307.14

(2) Retain records of administrative expenses incurred for activities and equipment relating to the operation of the RLF for three years from the actual submission date of the last semi-annual report that covers the Reporting Period in which such costs were claimed.

(3) Make available for inspection retained records, including those retained for longer than the required period. The record retention periods described in this section are minimum periods and such prescription does not limit any other record retention requirement of law or agreement. In no event will EDA question claimed administrative costs that are more than three years old, unless fraud is at issue.

[71 FR 56675, Sept. 27, 2006, as amended at 73 FR 62867, Oct. 22, 2008; 79 FR 76134, Dec. 19, 2014]

§ 307.14 Revolving Loan Fund semi-annual report and Income and Expense Statement.

(a) *Frequency of reports.* All RLF Recipients, including those receiving Recapitalization Grants for existing RLFs, must complete and submit a semi-annual report in electronic format, unless EDA approves a paper submission.

(b) *Report contents.* RLF Recipients must certify as part of the semi-annual report to EDA that the RLF is operating in accordance with the applicable RLF Plan. RLF Recipients also must describe (and propose pursuant to § 307.9) any modifications to the RLF Plan to ensure effective use of the RLF as a strategic financing tool.

(c) *RLF Income and Expense Statement.* An RLF Recipient using either 50 percent or more (or more than \$100,000) of RLF Income for administrative costs in a six-month Reporting Period must submit to EDA a completed Income and Expense Statement (Form ED-209I or any successor form) for that Reporting Period in electronic format, unless EDA approves a paper submission. EDA may waive this requirement for an RLF Grant with a small RLF Capital Base, as determined by EDA.

[73 FR 62867, Oct. 22, 2008, as amended at 75 FR 4264, Jan. 27, 2010; 79 FR 76134, Dec. 19, 2014]

13 CFR Ch. III (1–1–16 Edition)

§ 307.15 Prudent management of Revolving Loan Funds.

(a) *Accounting principles.* (1) RLFs shall operate in accordance with generally accepted accounting principles (“GAAP”) as in effect from time to time in the United States and the provisions outlined in OMB Circular A-133 and the Compliance Supplement, as applicable.

(2) In accordance with GAAP, a loan loss reserve may be recorded in the RLF Recipient’s financial statements to show the fair market value of an RLF’s loan portfolio, provided this loan loss reserve is non-funded and represents non-cash entries.

(b) *Loan and accounting system documents.* (1) Within 60 days prior to the initial disbursement of EDA funds, a qualified independent accountant who preferably has audited the RLF Recipient in accordance with OMB Circular A-133 requirements, shall certify to EDA and the RLF Recipient that such system is adequate to identify, safeguard, and account for all RLF Capital, outstanding RLF loans, and other RLF operations.

(2) Prior to the disbursement of any EDA funds, the RLF Recipient shall certify that standard RLF loan documents reasonably necessary or advisable for lending are in place and that these documents have been reviewed by its legal counsel for adequacy and compliance with the terms and conditions of the Grant and applicable State and local law. The standard loan documents must include, at a minimum, the following:

- (i) Loan application;
- (ii) Loan agreement;
- (iii) Board of directors’ meeting minutes approving the RLF loan;
- (iv) Promissory note;
- (v) Security agreement(s);
- (vi) Deed of trust or mortgage (as applicable);
- (vii) Agreement of prior lien holder (as applicable); and
- (viii) Signed bank turn-down letter demonstrating that credit is not otherwise available on terms and conditions